

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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| In the Matter of |) | |
| |) | |
| Carrier Current Systems, including Broadband over Power Line Systems |) | ET Docket No. 03-104 |
| |) | |
| Amendment of Part 15 regarding new requirements and measurement guidelines for Access Broadband over Power Line Systems |) | ET Docket No. 04-37 |
| |) | |

**COMMENTS
OF THE
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION**

The National Telecommunications Cooperative Association (NTCA) hereby submits its comments in response to the Commission's above referenced Notice of Proposed Rulemaking (NPRM) concerning the proposals to amend rules to adopt new requirements and measurement guidelines for a new type of carrier current system that provides access to broadband services using electric utility companies' power lines.¹

NTCA is a not-for-profit association established in 1954. It represents more than 500 rate-of-return regulated rural telecommunications companies. NTCA members are full service telecommunications carriers providing local, wireless, cable, Internet, satellite

¹ *In the Matter of Carrier Current Systems, including Broadband over Power Line System*, ET Docket No. 03-104, *Amendment of Part 15 regarding new requirements and measurement guidelines for Access Broadband over Power Line Systems*, ET Docket No. 04-37, FCC 04-29, Notice of Proposed Rule Making (rel. Feb. 23, 2004).

and long distance services to their communities. All NTCA members are small carriers that are defined as “rural telephone companies” in the Telecommunications Act of 1996.²

In its NPRM, the Commission spends much time discussing the technical capabilities of Broadband over Power Line (BPL) systems and potential interference concerns. Many questions are asked regarding how BPL is to be defined, and what the operational requirements and measurement guidelines are to be. While these are important questions that must be answered if BPL is to grow and develop, there are other equally important questions that the Commission fails to ask.

The Commission offers no proposals regarding the regulation of BPL. There is no mention of how the service may be used and whether there are issues of competitive neutrality. It is anticipated that providers of the BPL service will compete directly with other providers of broadband. The Commission should be preparing for that eventuality and decide the important regulatory issues as the service is developed.

There are important public policy issues that must be addressed whenever a system has the potential to provide telecommunications capabilities to the masses. As Commissioner Copps recognized, issues such as CALEA, universal service, disabilities access, and E911 must be tackled in conjunction with the technical capabilities issues.³ To do otherwise does a disservice to the public who relies on these services and expects them of their telecommunications carriers. It would also force carriers and manufacturers to develop systems in an arena of regulatory uncertainty.

² 47 U.S.C. § 153(37).

³ See, NPRM Statement of Commissioner Michael J. Copps Dissenting in Part and Approving in Part at p. 36.

There are also issues regarding pole attachment and cross-subsidization between the regulated power businesses and the unregulated communications businesses.

The technical piece of this NPRM is important and necessary, but so is the regulatory piece. The Commission should issue a Further Notice of Proposed Rulemaking and decide the technical and regulatory issues simultaneously.

Respectfully submitted,

**NATIONAL TELECOMMUNICATIONS
COOPERATIVE ASSOCIATION**

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May 3, 2004

CERTIFICATE OF SERVICE

I, Gail Malloy, certify that a copy of the foregoing Comments of the National Telecommunications Cooperative Association in ET Docket No. 03-104, ET Docket No. 04-37, FCC 04-29 was served on this 3rd day of May 2004 by first-class, U.S. Mail, postage prepaid, to the following persons.

/s/ Gail Malloy

Gail Malloy

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